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No. OFFICE OF THE CLERK

In the
Supreme Court of the United States

TONYA HARRIS, as administratrix of the
Estate of decedent Torris Harris,
Petitioner,

v.

CITY OF CHATTANOOGA, et al.,
Respondents.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- I. Whether the Court of Appeals exercised its supervisory power in a way that conflicted with Petitioner's right of due process by denying Petitioner's statutory right to appeal in arbitrarily applying its waiver rule and exceptions?
- II. In an issue expressly reserved by this Court in its prior decision in *Thomas v. Arn*, what standard must a Court of Appeals apply in considering exceptions to its waiver rule?
- III. Whether the District Court committed plain error in finding Petitioner's former attorney had apparent authority to settle her suit where the controlling authority from the State Court of last resort holds that attorneys do not have apparent authority?
- IV. Whether the Court of Appeals acted in direct contravention to prior holdings of this Court and overstepped the bounds of its duty under *Federal Rules of Civil Procedure* 52(a) in weighing evidence in the record *de novo* and making factual findings?

RULE 29.6 STATEMENT

No corporations or subsidiaries are involved in this case.

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PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit is published at 137 Fed. Appx. 788 (6th Cir. 2005). A petition for rehearing was denied without opinion. The unpublished order was issued on September 29, 2005.

JURISDICTION

The judgment of the United States Court of Appeals was issued on June 15, 2005. (App. at 3a). A petition for rehearing and for rehearing *en banc* was denied on September 29, 2005. (App. at 1a). This Court has jurisdiction over this petition under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The provision of the United States Constitution relevant to this petition is the Due Process Clause of the Fifth Amendment, which provides: "No person shall be . . . deprived of life, liberty, or property, without due process of law . . ."

The statute relevant to this petition is Section (b)(1) of the Federal Magistrates Act, which provides:

(1) Notwithstanding any provision of law to the contrary—(A) a judge may designate a magistrate